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Docket No.: RBI-022
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
John G. Robertson

Application No.: 10/696,414

Confirmation No.: 7254

Filed: October 28, 2003

Art Unit: 1618

For: METHOD FOR DETECTING HALITOSIS

Examiner: J. R. Samala

RESPONSE

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is in response to the office action mailed from the United States Patent and Trademark Office on January 25, 2007. A request for the appropriate extension of time and the requisite fee are filed concurrently herewith.

Applicant respectfully acknowledges that the Examiner found pending claims 1-13 to be free of the prior art.

Rejection of Claim 1-13 under 35 U.S.C. § 112, second paragraph

Claims 1-13 are rejected under 35 U.S.C. § 112, second paragraph, as being, "based on a disclosure which is not enabling." In particular the Examiner found that subjects suffering from desensitized olfactory systems would not be in a position to practice the invention.

Applicant disagrees. Applicant respectfully submits that this rejection does not pertain to the claims as currently pending. In the instant specification at page 2, lines 24-5, Applicant defines the term subject as "organisms capable of ...using the methods and kits of the invention,". The term "subjects", as defined by Applicant, does not include subjects who are not able to use the methods of the invention, such as subjects with desensitized olfactory systems. Therefore, Applicant submits